

VZCZCXR06807

PP RUEHDBU RUEHLN RUEHVK RUEHYG

DE RUEHTA #1558/01 1570751

ZNR UUUUU ZZH

P 060751Z JUN 07

FM AMEMBASSY ASTANA

TO RUEHC/SECSTATE WASHDC PRIORITY 9700

INFO RUCNCIS/CIS COLLECTIVE 0198

RUEHC/SECSTATE WASHDC//SCA COLLECTIVE/ 9701

RUEHVEN/USMISSION USOSCE 1760

RUEHNO/USMISSION USNATO 2219

RUEHAST/USOFFICE ALMATY

UNCLAS SECTION 01 OF 03 ASTANA 001558

SIPDIS

DEPARTMENT FOR SCA/CEN (M. O'MARA)

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: PGOV PHUM KDEM PREL KZ

SUBJECT: KAZAKHSTANI OPPOSITION SHARPLY CRITICAL OF POLITICAL REFORM EFFORTS

REF: A. Astana 1323, B. Astana 1357, C. Astana 1469, D. Astana 1466

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¶11. (SBU) Summary: After initially welcoming the reform proposals outlined in President Nazarbayev's May 16 speech, the Kazakhstani opposition movement has become sharply critical of the measures after analyzing the actual text of the constitutional amendments. The last-minute inclusion of a provision exempting Nazarbayev from term limits added fuel to the fire. Complaints relate to the way the changes were pushed through without debate, and the content: many of the changes benefit the president rather than the legislative branch, as advertised. While the critics have a point, they also appear to be underestimating the potential impact of an expanded, more diverse Mazhilis. The full impact of the reforms will only be clear once related legislation is approved, beginning with a package of election law amendments introduced to parliament on June 1. End summary.

Initial Cautious Optimism...

¶12. (SBU) Immediately following President Nazarbayev's May 16 address to parliament in which he described his reform proposals in general terms, many in the political opposition reacted with cautious optimism (Ref A). Social Democratic Party leader Zharmakhan Tuyakbay issued a statement describing the package as a "first step toward democratic reform," while calling for further reforms and more public debate. True Ak Zhol co-chair Oraz Zhandosov told the Ambassador on May 16 that he viewed the majority of the proposals as beneficial.

¶13. (U) On May 17, True Ak Zhol issued a public statement describing the amendments as "contradictory": while they saw measures such as moving to a proportional system for electing the Mazhilis and requiring maslikhat approval of oblast akims as positive, they were critical of other measures such as residency requirements for parliamentary candidates and the lengthening of maslikhat terms. The party also noted that the reforms did not go far enough in establishing true local self-government by directly elected akims and maslikhats. They called on the Mazhilis and Senate to revise the draft legislation to address these weaknesses.

...Followed by Heated Criticism

¶4. (SBU) When the May 18 joint session parliament approved the package unanimously after only 21 minutes of deliberation, including a last-minute measure lifting term limits on Nazarbayev as Kazakhstan's "first president" (Ref B), the opposition sharply changed its tone. True Ak Zhol co-chair Bulat Abilov told the press on May 22 that a country with a lifelong president "cannot be called democratic. The reform shows that Kazakhstan is moving back to the Soviet past, and the autocracy of the regime is only getting stronger."

¶5. (U) On May 23, the Social Democratic Party and True Ak Zhol issued two joint statements. The first announced the formation of a pre-electoral bloc called "For a Just Kazakhstan" in anticipation of early Mazhilis elections. The second sharply criticized the content of the amendments and the way they had been passed. The majority of the changes "limit the rights and freedoms of the people of Kazakhstan, violate the principles of the system of checks and balances, and contradict Kazakhstan's international obligations," the statement read. It criticized the "shamefully short" deliberation period, as well as the introduction of residency requirements for Senate and Mazhilis candidates; the provision allowing the Senate, a body not directly elected by voters, to exercise the functions of the whole legislature if the Mazhilis is dissolved; the provision allowing the president to dissolve the parliament and maslikhats at all levels for any reason; and the fact that the president will in the future appoint almost one-third of senators and nine Mazhilis members. The statement went on to say that the amendment lifting term limits on Nazarbayev "violates the constitutional norm on the equality of all citizens before the law, and in fact leads to the irremovability of the regime. Moreover, this amendment clearly violates the procedure for amending the constitution stipulated in Articles 53 and 91."

Tuyakbay Takes on the Senate

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¶6. (SBU) Although not on the speakers' list, Tuyakbay was allowed to address a May 30 Senate conference on democratic reform chaired by Senate Speaker Kasymzhomart Tokayev and attended by Pol-Econ Chief. In sharp contrast with the other speakers, who uniformly praised the amendments and Nazarbayev's leadership, Tuyakbay stated bluntly that the measures had provoked "bewilderment and fear" among the public. He criticized the working group led by Igor Rogov (Ref C) for not responding to proposals received from the Social Democratic Party and others, and questioned "the sincerity of the leadership" regarding reforms. A visibly irritated Tokayev interrupted Tuyakbay to point out that his comments after Nazarbayev's speech had been relatively positive, and to ask why his approach had changed. Tuyakbay replied "the president's speech and the published text of the amendments are two different things: the speech provoked optimism and seemed a step forward, but afterward those expectations were not fulfilled."

¶7. (SBU) Tuyakbay continued his remarks, noting concerns over the expanded ability of the president to dissolve parliament and claiming that overall, the amendments strengthened the president's ability to resolve conflicts in his favor. Noting that the increased role of the parliament in the formation of the government had been touted as a major improvement in the system of checks and balances, Tuyakbay explained that previously the president was required to obtain the parliament's consent before appointing a new prime minister; under the new provisions he will have to consult with Mazhilis party factions before proposing a candidate for the approval of the Mazhilis. Tuyakbay asked rhetorically, "how will this change anything, except to provide opportunity for more political intrigue?" Concluding his remarks, Tuyakbay said that the new constitution does not follow the path of democratic development or the will of the nation; it is difficult to say what results it will bring. In a possible allusion to the Aliyev scandal (Ref D), Tuyakbay alleged that "we have seen the destabilizing effect in recent days." He called for the creation of an independent Center on Constitutional Reform to develop proposals that are in the interests of all segments of society.

¶8. (SBU) All the major television channels, including Khabar, Astana TV, and Kazakhstan 1, reported on the Senate event. Only the centrist and nominally independent Channel 31 covered Tuyakbay's comments, however.

Preliminary Analysis of Changes

¶9. (SBU) Opposition leaders are correct in their assessment that many of the changes increase the formal authority of the president. The Mazhilis and Senate will, however, gain additional leverage against the executive authority. For example, the reforms make it easier for the Mazhilis to succeed in a no-confidence vote against an individual minister or the Cabinet as a whole, lowering the threshold from a two thirds majority vote to a simple majority vote.

(Note: In the case of individual Cabinet members, a no-confidence vote is considered an appeal to the president for the dismissal of the Cabinet member; the president may refuse to dismiss the Cabinet member, in which case the Mazhilis may try again in six months. If they succeed the second time, the president must dismiss the Cabinet member. In the case of a no-confidence vote against the whole Cabinet, the Cabinet ministers must submit their resignation to the President. If the president declines the resignations, he shall have the right to dissolve parliament. End note.)

¶10. (SBU) The impact of several changes to the Mazhilis and Senate and will depend on subsequent legislative changes and implementation. For example, the Mazhilis will grow by 30 seats (to 107), with nine deputies to be chosen by the presidentially-appointed Assembly of Peoples of Kazakhstan and the rest to be directly elected. (Note: The amendments to the constitutional law on elections submitted by the Presidential Administration to parliament on June 1 specify that Mazhilis members will be elected on a proportional, party list basis. The minimum threshold for a party to be represented will remain 7%. End note.) If elections under the new rules are conducted fairly, the enlarged Mazhilis could include at least a few opposition members - particularly if the True Ak Zhol-Social Democrats bloc comes up with a persuasive unified platform.

¶11. (SBU) The changes to local self government were modest, but somewhat positive. In the future, maslikhats rather than the Prime Minister will recommend oblast-level akims for appointment by the president. The maslikhats can also vote to recommend that the president dismiss an akim by a simple majority, rather than a

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two-thirds vote as previously required. The term for maslikhats is increased from four to five years, which some observers have criticized as distancing maslikhat members, who are directly elected, from their constituents. Some have also criticized the fact that the president can now dissolve maslikhats for any reason; previously, only the Senate could do so for reasons prescribed by law.

¶12. (SBU) Comment: While it is true that many of the constitutional amendments increase the president's formal authority, they will not increase his actual power. Under the current system, President Nazarbayev makes every critical decision on government and parliamentary appointments, regardless of what the Constitution says. Some of the changes merely codify actual practice, such as having the president appoint the ministers of Foreign Affairs, Defense, Internal Affairs, and Justice; in reality, the president, not the Prime Minister, currently chooses all the ministers, and the four listed above report directly to him. The changes to presidential authorities may be an effort to ensure that Nazarbayev's successor, who will not have the same amount of personal power to bend the system to his will, will not be too disadvantaged. In the near term, the most significant change brought about by the constitutional amendments is the increase in the number of directly-elected seats in the Mazhilis. If the Kazakhstani authorities have the political will to address the underlying problems that have resulted in flawed elections in the past, new Mazhilis elections could/could bring a more diverse body

with greater leverage over the executive branch. End comment.

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